

**BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
Docket No. 2017-362-C**

In re:)	
)	
Troy LaColla,)	
)	
Complainant,)	
)	
v.)	
)	
Charter Fiberlink SC-CCO, LLC;)	
Frontier Communications of the Carolinas, LLC,)	
BellSouth Telecommunications, LLC d/b/a)	
AT&T South Carolina,)	
)	
Respondents.)	

CHARTER FIBERLINK’S MOTION TO DISMISS AND REQUEST FOR SUSPENSION OF DEADLINES

Charter Fiberlink SC-CCO, LLC (“Charter Fiberlink”), one of three respondents in the above-captioned proceeding, moves, pursuant to S.C. Code Ann. §58-9-1110 and 10 S.C.Code Ann. Regs. 103-829, for dismissal of all claims against Charter Fiberlink asserted by complainant Troy LaColla. In support of its Motion, Charter Fiberlink states as follows:

1. Charter Fiberlink is authorized by the Public Service Commission of South Carolina (the “Commission”) to provide local exchange and intrastate interexchange telecommunications services in South Carolina. Charter Fiberlink provides such services using, in part, local distribution facilities owned by its affiliates that provide cable television and high-speed Internet access services.

2. Charter Communications, Inc. is the ultimate parent company of Charter Fiberlink and its affiliates who provide cable television and high-speed Internet access service. Charter Fiberlink’s affiliates commonly use the name “Charter Communications” in connection with their operations as a convenience to customers who may have little knowledge of corporate structures and entity naming conventions.

3. It appears that the basis of Mr. LaColla's Complaint is that he has been unable to obtain phone or Internet service at his home from any of the respondent service providers, including Charter Fiberlink.

4. The Commission does not have the power to "impose any requirements related to the terms, conditions, rates, or availability of broadband service." S.C. Code Ann. § 58-9-280(G)(a). "The term 'broadband service' means a service that is used to deliver video or to provide access to the Internet or content and services similar to that accessible through the Internet, and that consists of the offering of: (a) a capability to transmit information at a rate that is generally not less than one hundred ninety kilobits per second in at least one direction; or (b) a service that uses one or more of the following to provide this access: (i) computer processing; (ii) information storage; and (iii) protocol conversion." S.C. Code Ann. § 58-9-10.

5. Therefore, to the extent that Mr. LaColla's Complaint relates to the provision of Internet service, the Commission does not have the subject-matter jurisdiction necessary to adjudicate Mr. LaColla's claims, and the Complaint should be dismissed for lack of jurisdiction.

6. To the extent that Mr. LaColla's complaint relates to phone service, he also has no basis for relief against Charter Fiberlink. Charter Fiberlink is a certificated Competitive Local Exchange Carrier in South Carolina and is not a "carrier of last resort" as that term is defined in S.C. Code Ann. 58-9-10(10).

7. In the area where Mr. LaColla lives, the Incumbent Local Exchange Carrier is Respondent Frontier Communications of the Carolinas, LLC ("Frontier").

8. South Carolina law provides: "Initially, the incumbent LEC must be a carrier of last resort within its existing service area." S.C. Code Ann. § 58-9-10(10). A carrier of last resort "has the obligation to provide basic local exchange telephone service, upon reasonable request,

to all residential and single-line business customers within a defined service or geographic area.”
Id.

9. Conversely, there is no legal obligation for carriers that are not carriers of last resort, such as Charter Fiberlink, to provide service to any potential customer upon request.

10. Charter Fiberlink does not currently provide service to Mr. LaColla’s address, but it may decide to do so in the future.

11. Therefore, to the extent that Mr. LaColla’s Complaint relates to phone service, Charter Fiberlink does not provide such service to Mr. LaColla’s address, nor is it obligated to do so as a matter of law. Therefore, any claim Mr. LaColla has attempted to state against Charter Fiberlink relating to telephone service must be dismissed.

12. The Commission has issued a scheduling notice for this proceeding that established deadlines for pre-filing of testimony and a hearing date. Charter Fiberlink requests that the testimony and hearing dates established in the scheduling notice be suspended pending resolution of Charter Fiberlink’s motion to dismiss.

WHEREFORE, Charter Fiberlink respectfully requests that the Commission dismiss Charter Fiberlink from this proceeding and provide any other relief that it deems just and reasonable.

Respectfully submitted,

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